IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.13154 of 2004

Date of Decision:8.9.2006.

Simarjit Singh

....Petitioner.

Versus

State of Punjab and others.

...Respondents.

**CORAM** : Hon'ble Mr. Justice J.S.Khehar.
Hon'ble Mr. Justice S.D.Anand.

Present:- Mr.A.S.Jattana,Advocate
for the petitioner.

Mr.Ashok Aggarwal,Addl. AG Punjab,
for respondents No.1 to 3.

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**J.S.KHEHAR, J.(ORAL)**

The petitioner who was inducted into the service of the respondents as a Constable was proceeded against departmentally under the Provisions of the Punjab Civil Services (Punishment and Appeal) Rules 1970. On the culmination of departmental proceedings the Senior Superintendent of Police, Faridkot, dismissed the petitioner from service by an order dated 5.2.1993. Dis-satisfied with the order dated 5.2.1993, the petitioner preferred a statutory appeal. The appeal preferred by the petitioner after being examined by the Appellate Authroity i.e. The Deupty Inspector General of Police, Ferozepur Range, Ferozepur, was dismissed by an order dated 14.10.1993. The petitioner then impugned the original order of termination dated 5.2.1993 as well as the Appellate order dated

14.10.1993 by filing a revision petition. The aforesaid revision petition having allegedly not been disposed of by the competent authority, the petitioner approached this court in the first instance by filing Civil Writ Petition No.15336 of 1996. This court disposed of the aforesaid writ petition by passing an order dated 1.10.1996. Relevant extract of the order dated 1.10.1996 is being reproduced hereunder:

> In the course we are adopting in this writ petition, we do not consider it necessary to narrate the details given by the petitioner in this writ petition. Suffice it to say that disciplinary proceedings were initiated against the petitioner which ended in the imposition of punishment of dismissal from service. Appeal by him against the said punishment imposed by the disciplinary authority was dismissed by the Deputy Inspector General of Police, against which he preferred Annexure P-4 revision petition before the Inspector General of Police, way back on November 26, 1993. That revision petition has not been finally disposed of, it is alleged, hence the petitioner inter alia prays for the issuance of writ of mandamus directing the first respondent to pass final order on Annexure P-4, the memorandum of revision petition.
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> Annexure P-4 memorandum of revision petition is one filed as per the rules governing the matter. The first respondent, if has not disposed of that revision petition so far, is directed to pass final order on that revision petition as

expeditiously and at any rate, within three months from the date of receipt of a copy of this judgment.

Despite a legal notice having been issued by the petitioner allegedly enclosing therewith a copy of the order passed in C.W.P. 15336 of 1996 followed by a reminder issued to respondents on 5.2.2004, the respondents allegedly failed to furnish the petitioner with a copy of the order passed by the revisional authority. It is, therefore, that the petitioner has approcahed this court by filing the instant writ petition.

On the issuance of notice of motion, the respondents have filed a detailed written statement enclosing therewith the revisional order passed by the Inspector General of Police dated 4.3.1994. It was also asserted on behalf of the respondent that the revisional order has been communicated to the petitioner. In order to ascertain the varsity of the aforesaid contention i.e. whether the revisional order dated 4.3.1994 had been communicated to the petitioner, this court passed the following order on 27.1.2006:

> Learned State counsel states that a copy of the order dated 4.3.1994 vide which the appeal of the petitioner had been dismissed, was duly communicated at the same address of the petitioner at village Karai wala, Tehsil and District Mukatsar. However, the averment contained in Para No.6 of the written statement has not been substantiated, as to under what mode the order had been communicated.
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> Respondents are directed to produce the record accordingly.
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> Adjourned to 6.7.2006.

In furtherance of the aforesaid order passed by this court rather

than proceedings the original record an affidavit has been filed in this court. Along with the aforesaid affidavit the respondents have appended a copy of the despatch register. The affidavit inter-alia narrates the following factual position:

> 1.That the revision petition filed by the petitioner against the order of dismissal from service, has already been decided by Inspector General of Police (Administrative)Punjab, Chandigarh i.e. Respondent No.3 vide order dated 4.3.1994 and copy of said order dated 4.3.1994 was also sent to the petitioner at his home address of village Karai Wala Tehsil and District Muktsar vide letter endst No. 7383-84/E-2 dated 24.3.94. Copy of order dated 4.3.1994 along with letter dated 24.3.1994 have already been attached as Annexures R-1 and R-2 with the written statement.
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> 2.That the attested photo copy of concerned page of the Despatch Register of the office of Inspector General of Police (Administrative) Punjab Chandigarh i.e. respondent No.3 is attached here with as Annexure P-3 in which cleared that copy of order dated 4.3.1994 was sent to the petitioner vide Despatch No.7383-84/E-2 dated 24.3.1994 as such the revision petition dated 26.11.1993 has already been decided by the respondent No.3 and copy of order was also sent to the petitioner as per procedure. Hence, no illegality has been committed by the state respondents, copies of Annexures R-1 and R-2 and above said attested photo copy of concerned page

of the despatch Register may kindly be considered.

A perusal of the Annexure-R3, appended to the aforesaid affidavit reveals that the communication addressed to the petitioner was recorded in the Desptach Register at Serial Number 7383-84, on the basis of the aforesaid Despatch Register. It is sought to be ascertained that the revisional order dated 4.3.1994 had factually been communicated to the petitioner. The aforesaid factual position is further seriously disputed by the learned counsel for the petitioner.

The only question to be adjudicated upon while disposing of the instant controversy is whether the petitioner should be deemed to have been served with the revisional order on the basis of the despatch register produced by the respondent. In our view the issue has to be adjudicated upon the basis of the Rule 22 of Punjab Civil Services (Punishment and Appeal) Rules 1970. The aforesaid rule is being extracted here under for reference:

> **22. Service of orders, notices, etc**.- Every order, notice and other process made or issued under these rules shall be served in person on the Government employee concerned or communicated to him by registered post.

A perusal of the aforesaid rule reveals that an order passed under the provisions of Punjab Civil Services (Punishment and Appeal) Rules 1970, rules must either be served in person on the Government employee, or alternatively, the order must be despatched to him by registered post. It is clear from the written statement filed on behalf of respondents coupled with the affidavit, now filed in court, that the

revisional order dated 4.3.1994 was neither served on the petitioner personally nor was the same despatched to the petitioner by registered post. In the peculiar circumstances it cannot be accepted that the revisional order had been served on the petitioner in terms of the provisions of Punjab Civil Services (Punishment and Appeal) Rules 1970,

Be that as it may since the revisional order has now been attached with the written statement filed by the respondent, the same will now be deemed to be served on the petitioner, and it shall be open to the petitioner, if he be so advised to avail of a remedy in accordance with law, if he desires to impugn this revisional order, as if the revisional order has been served upon him now.

Disposed of accordingly.

**(J.S.KHEHAR)**
**JUDGE**

**(S.D.ANAND)**
**JUDGE**

Sept 08,2006.
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